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**TO: Economic Support Supervisors  
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**BHCE/BWP OPERATIONS MEMO**

**No.: 03- 41**

**Date: 07/07/2003**

**Non W-2 ☒ W-2 ☐ CC ☐**

**PRIORITY: HIGH**

**SUBJECT: NON-CITIZEN ELIGIBILITY FOR MEDICAID**

**CROSS REFERENCE:**

Medicaid Handbook Appendix 2.0.0  
Operations Memo 98-46

**EFFECTIVE DATE:**

July 7, 2003

**PURPOSE**

The purpose of this memo is to:

1. Clarify non-citizen eligibility policy for Medicaid (MA)
2. Provide updated instructions on verifying information for a non-citizen MA applicant

**NOTE ➤** The policy direction in this memo does not affect all non-citizen applicants. It pertains to a small group of non-citizen applicants who arrived in the U.S. prior to August 22, 1996. Under current policy some non-citizens who entered the US *prior* to August 22, 1996, but obtained qualified alien status *on or after* August 22, 1996, may have been incorrectly denied MA. Instructions in this memo clarify how to determine eligibility for these non-citizens.

## BACKGROUND

One of the non-financial eligibility requirements for Medicaid (MA) is that the applicant/recipient must be a United States (U.S.) citizen or qualified alien. Certain non citizens who arrived in the U.S. on or after August 22, 1996 are subject to a five-year ban on receiving federal MA benefits, other than emergency services. For these aliens, the five-year ban is calculated beginning the day on which an individual gains qualified alien status. To determine whether an applicant is subject to the five-year ban, it is necessary to establish the applicant's immigration status; the date he/she obtained qualified alien status; and his/her date of arrival into the U.S.

ES workers use the Systematic Alien Verification for Entitlement (SAVE) and Alien Status Verification Index (ASVI) systems, administered by the Bureau of Citizenship and Immigration Services (BCIS) formerly Immigration and Naturalization Services, to verify information provided by non-citizen applicants. ASVI is one component of SAVE that is accessed via either telephone or computer to complete primary verification. The primary verification inquiry through ASVI returns the date an individual obtained qualified alien status or his/her latest status change, rather than the initial date of entry. This is sufficient information when making an inquiry for those non-citizens who come to the U.S. for the first time on or after August 22, 1996. However it may not be sufficient when an applicant has arrived in the U.S. before August 22, 1996 and/or has had a change in his/her alien status since arrival in the U.S.

**NOTE ➤** There is a difference between the date of entry or arrival in the U.S. and the date an individual obtained qualified alien status. The ASVI system uses **date of entry** to mean the **date an individual obtained qualified alien status** rather than an individual's actual date of arrival on U.S. soil. Therefore, to avoid confusion in this Operations Memo the term **date of arrival** will be used to mean the actual date of arrival on U.S. soil.

## POLICY

Below is clarified non-citizen eligibility policy according to federal guidance:

1. A non-citizen may arrive in the U.S. **before** August 22, 1996 in a legal, but non-qualified, alien status and change their status to a qualified alien **on or after** August 22, 1996. This individual would not be subject to the five-year ban if they remained continuously present (see page 4 for definition and procedures) from his/her date of arrival in the U.S. until the date he/she gained qualified alien status.
2. A non-citizen who arrives in the U.S. **before** August 22, 1996 in undocumented status or who overstays his/her original visa is treated the same as someone who arrives and remains in the U.S. with valid immigration documents. Therefore, if this individual remains continuously present from his/her date of arrival in the U.S. until the date he/she gained qualified alien status, he/she would not be subject to the five-year ban.
3. For those non-citizens arriving in the U.S. with or without documentation **on or after** August 22, 1996 or those for whom continuous presence cannot be verified, the five year ban applies from the date the individual obtained qualified alien status.

**VERIFICATION POLICY****Documented Non-Citizens**

The Income Maintenance (IM) Manual contains instructions on verifying alien status (Ch 1, Part D, 4.0.0). These instructions are correct, however, certain circumstances may require a worker to do further verification.

**Primary verification** is done through an automated telephone or computer database system. A worker processing an application can compare the data received from ASVI with the data on any immigration documents presented. The primary verification query via ASVI most likely results in returning the latest date of any qualified alien status update for an individual, **not** his/her original date of arrival. The only way to obtain an accurate date of arrival for those who don't meet an exemption category and who allege a date of arrival prior to August 22, 1996 is through the secondary verification procedure.

It may be necessary to complete a secondary verification procedure with BCIS, including confirming the date of arrival, in the following situations:

- The applicant does not fall into any of the categories of non citizens who are exempt from the five year ban (e.g. refugees, asylees, those with military service, etc)
- An ES worker has made an initial or primary verification inquiry using the SAVE/ASVI database. The information from this inquiry conflicts with information on the applicant's immigration documents or what he/she is telling the ES worker.
- A non citizen applicant tells an ES worker he/she came to the U.S. prior to August 22, 1996. If he/she arrived in a legal or documented status, the ES worker needs to verify the date of arrival to ensure that the correct alien eligibility rules are being applied.
- ASVI returns the message, "Institute Secondary Verification"
- ES worker finds any questionable information in the initial verification process

The **secondary verification** procedure is a manual Document Verification Request and includes two forms, the **Form G-845S and Form G-845 Supplement**. These two forms must be submitted together in order to obtain the accurate U.S. arrival date. When sending the forms, include any photocopies of immigration documents presented. Although BCIS maintains a sub-office in Milwaukee, this office does not process these requests. Send the forms to the following address:

US Bureau of Citizenship and Immigration Services  
ATTN: Immigration Status Verifier  
10 West Jackson Blvd  
Chicago, IL 60604

An Immigration Status Verifier (ISV) will research the alien's records and complete the response portion of the verification request.

**NOTE ➤ An applicant is considered eligible pending verification from INS.**

Consult the SAVE manual at the following web link for more information:  
<http://www.dwd.state.wi.us/desfshbk/handbook>

**UNDOCUMENTED NON-CITIZENS**

In cases in which it is known that the applicant originally arrived in the U.S. in undocumented status, do not submit the above forms to the BCIS. Undocumented aliens do not have any official documentation regarding their date of arrival. Therefore, if a worker needs to establish a date of arrival for a qualified alien who originally arrived as an undocumented alien prior to August 22, 1996, alternative methods need to be used. In such cases the applicant must provide at least one piece of documentation that shows his/her presence in the U.S. prior to August 22, 1996. This may include pay stubs, letter from an employer, lease or rent receipts, or a utility bill in the applicant's name.

**CONTINUOUS PRESENCE**

An individual meets the "continuous presence" test if they:

1. Did not have a single absence from the U.S. of more than 30 days, or
2. Do not have a cumulative number of absences totaling more than 90 days.

Proving "continuous presence" with specific types of documentation can be difficult and onerous for both applicant and worker. Therefore, to establish continuous presence, require a signed statement from the applicant stating he/she was continuously present for the period of time in question. The signed statement will be sufficient unless a worker believes the information is fraudulent or further information received now indicates that it is questionable.

The Bureau will not produce a standard form for this purpose. Below is an example of a signed statement:

I, *first and last name*, hereby declare that I have continuously resided in the United States between the day I arrived in the United States, *date here*, and the day I received qualified alien status, *date here*. I have not left the United States in that time for any single period longer than 30 days or for periods totaling more than 90 days.

Sign and date below

**Non-citizen applicant examples:**

Toshi entered the U.S. February 2, 1998 with qualified alien status. She is applying for MA in January 2003. ES worker should first determine whether she is in one of the alien categories exempt from the five-year ban. If Toshi is not exempt then she must wait five years before applying for MA. She can be determined eligible for MA after February 2, 2003.

Shariff arrived as a student in June 1992. On June 5, 2000 he was granted asylum. The five-year ban does not apply because asylees are exempt from the ban. Secondary verification is not necessary. He is eligible for MA provided he meets other financial and non-financial criteria.

Katrin entered the U.S. March 3, 1995 and gained qualified alien status June 20, 1995. She is applying for MA in January 2003. She is a qualified alien who entered the U.S. prior to August 22, 1996. There is no need to apply the five-year ban. She is eligible for MA provided she meets other financial and non-financial criteria.

Juan entered the U.S. as an undocumented alien on April 1, 1996. He is applying for MA in June 2003. His immigration status changed to lawful permanent resident on March 3, 1999. Juan did not leave the country for any time between April 1, 1996 and March 3, 1999. He has signed a self-declaration stating he remained continuously present in the U.S. between April 1, 1996 and March 3, 1999. He is eligible for MA provided he meets other financial and non-financial criteria.

Elena entered the U.S. on July 15, 1997 on a temporary work visa and obtained qualified alien status on October 31, 2002. She is applying for MA in February 2003 and has been in the U.S. now for over five years. Elena is not in one of the alien categories exempt from the five-year ban. Therefore, the five-year ban would have to be applied in this case since Elena's original entry date is after August 22, 1996. The five-year clock starts from the date she obtained qualified alien status. Therefore, she will be eligible to apply for MA after October 31, 2007.

Tomas entered the U.S. on October 8, 1994 on a visitor's visa. He obtained qualified alien status on September 22, 1998. Tomas applies for MA on May 5, 2003. The ES worker completes primary verification and BCIS responds with the date of entry as September 22, 1998. The ES worker needs to confirm with applicant that this is the original date he arrived in the U.S. Tomas explains that he arrived in 1994 therefore, the ES worker needs to conduct secondary verification. BCIS responds and confirms that original date of arrival is October 8, 1994. Additionally the ES worker needs to confirm that the applicant was continuously present between October 8, 1994 and September 22, 1998. Tomas signs a self-declaration confirming this and is found eligible. Had the ES worker used September 22, 1998 as the date of entry in CARES, Tomas would have been **incorrectly** subject to the five-year ban and not eligible until September 22, 2003.

### ***PROCEDURES/ACTION FOR ES WORKER***

Refer to attached flow chart.

### ***CARES CASE PROCESSING***

Changes will be made at the end of July to CARES screen ANAR to reflect the policy guidance in this memo. The changes will not be in place when this memo is released. If you encounter a case falling into one of the scenarios described here, please contact the call center for instructions on how to process the case in CARES until the ANAR screen has been changed.

### ***CORRECTIVE ACTION FOR RECENTLY DENIED CASES***

BHCE will send a letter to individuals who may have been incorrectly denied MA in the last 30 days prior to this Operations Memo release date. The group of individuals receiving the letter is limited to certain individuals subject to the five year ban and who were denied in part for not being a citizen or qualifying alien. The letter will explain why they are being contacted as well as instructions on how to contact their local agency and worker to have their eligibility re-determined. The individual does not need to re-apply but should contact the agency to initiate the process of re-determining eligibility. BHCE will distribute a list to the local agencies of the individuals that have been denied MA eligibility in the past 30 days. Agencies do not have to act on this list, but may use it as a reference to determine how many individuals may be approaching the agency for re-determination.

**IMPLICATIONS FOR OTHER PROGRAMS****Food Stamps**

This policy change only affects Medicaid eligibility. There is no change in the requirement for FS applicants to have a qualified alien status identified by SAVE including the “date of entry”. It is critical for ES workers to continue to make the correct entries on screen ANAR for non-citizens in order to establish correct FS eligibility determinations for federal FS benefits, State Option FS benefits, and to identify ineligible aliens for deeming purposes.

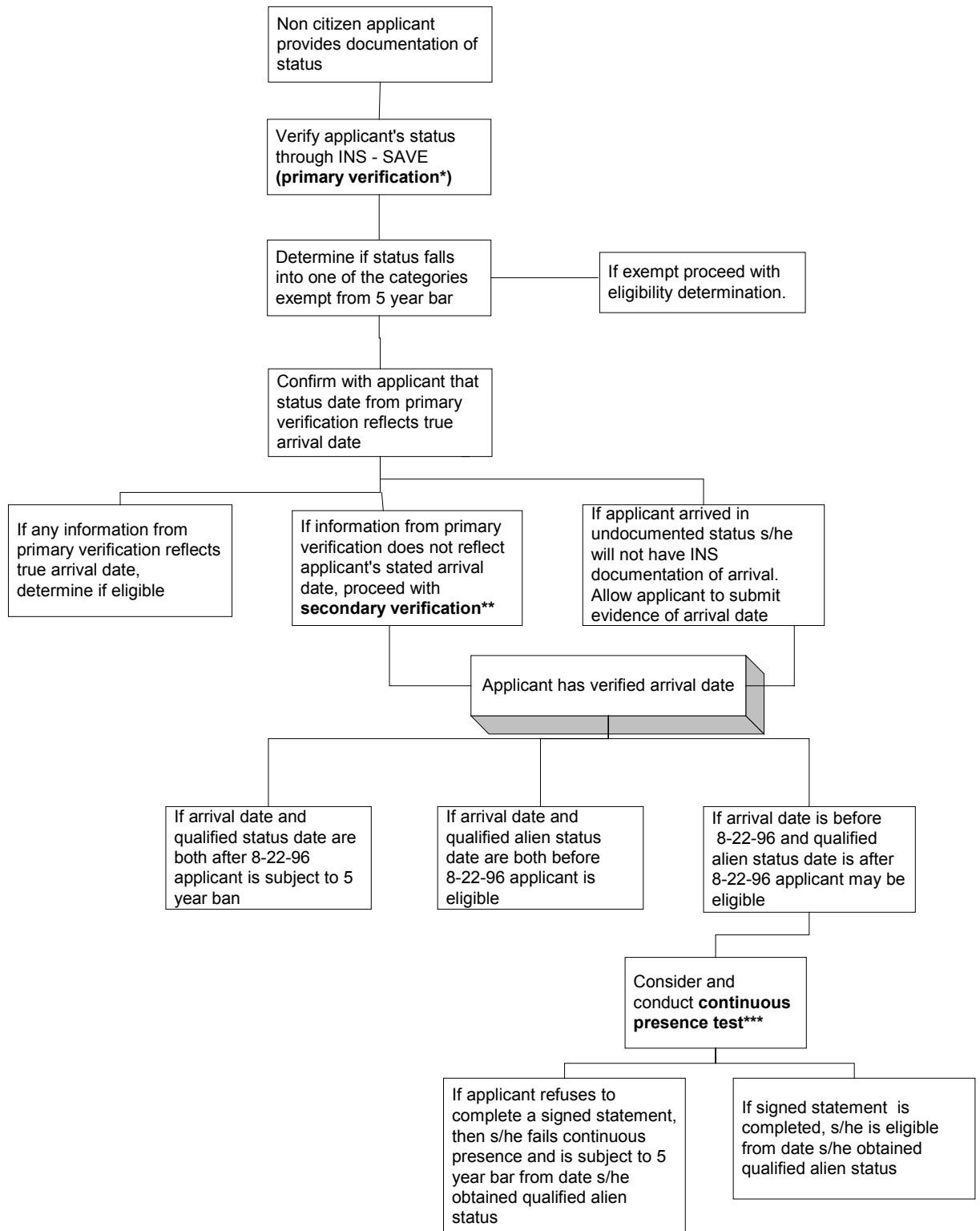
**CONTACTS**

BHCE CARES Information & Problem Resolution Center

Email: [carpolcc@dhfs.state.wi.us](mailto:carpolcc@dhfs.state.wi.us)  
Telephone: (608) 261-6317 (Option #1)  
Fax: (608) 266-8358

Note: Email contacts are preferred. Thank you.

DHFS/DHCF/BHCE/MM

**\* Primary verification**

Completed by using the INS - ASVI system  
ASVI query will return the date applicant obtained qualified alien status, not the date of arrival to the U.S.

**\*\* Secondary verification**

This is a manual documentation request. Send in 2 forms: G-845S and G-845 supplement to INS Chicago. An immigration status verifier will research the applicant's records and respond to the request.

**\*\*\* Continuous presence test**

An applicant meets the continuous presence test if s/he did not have a single absence from the U.S. of more than 30 days or several absences totalling more than 90 days. Require a signed statement from the applicant stating s/he was continuously present for the time in question.